IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.200 OF 2004

Shahin Afijal Tamboli ...Petitioner

Vs.

Police Inspector, Baramati Police Station and Others. ...Respondents

....

Mr.Vijay Killedar Advocate for Petitioner
Mr.A.S.Gadkari, A.P.P. for the State

....

CORAM : H.L.GOKHALE AND SMT.V.K.TAHILRAMANI,JJ.
DATE : AUGUST 16,2004

P.C.:

1. Heard Mr.Killedar for the Petitioner.

Mr.A.S.Gadkari appears for the State.

2. The grievance of the Petitioner is that though she was assaulted on stomach by her husband when she was pregnant and though, according to her, it led to abortion, Police have not charged the accused under Sections 315 and 316 of IPC. Mr.Gadkari has shown the medical papers which show that the complainant had missed two menstrual cycles. It is at that stage that on 1st July, 2003 that the husband of the Petitioner is stated to have kicked her in her abdomen. She was required to undergo curreting which was performed on 31st July, 2003. It will be a point to be examined as to whether there was any connection between the assault and the resultant consequence thereof. In any way, Mr.Gadkari appearing for the

Respondents makes a statement that he has instructions to leave it to the Court to pass appropriate orders.

3. Having noted the facts as above, we do feel that there is a prima facie arguable case for an action under Section 315 of IPC though as far as Section 316 of IPC is concerned, it requires a "quick unborn child" which is a phrase used to describe the peculiar sensation experienced by woman after about 4th or 5th month of pregnancy. That is certainly not the situation in the present case. The State will therefore, add the charge under Section 315 of IPC and file an additional charge-sheet before the trial Court. The petition stands allowed to this limited extent.

. Authenticated copy be made available to the parties.

[H.L.GOKHALE,J.]

[SMT.V.K.TAHILRAMANI,J.]